IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

OP.No. 2304 of 2003(Y)

PETITIONER:

C.L.SUNNY S/O. CHALLISSERY LONAPPAN,
OLLUKKARA VILLAGE, PARAVATTANI DESOM,
THRISSUR TALUK, THRISSUR DISTRICT AND KERALA STATE

BY ADV. SRI.M.UNNIKRISHNA MENON

RESPONDENTS:

THRISSUR DISTRICT COLLECTOR,
COLLECTORATE, AYYANTHOLE, THRISSUR.

BY GOVERNMENT PLEADERSRI.C.K.GOVINDAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 19/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.4104/2003 IN O.P. NO.2304/2003

DISMISSED:

19.12.2006 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF NOTICE IN FORM 19 ISSUED TO THE PETITIONER BY RESPONDENT DT.10.12.2002.

P2: TRUE COPY OF THE WRITTEN OBJECTION FILED BY PETITIONER TO RESPONDENT DT.17.12.2002.

P3: TRUE COPY OF THE ORDER OF THE RESPONDENT DT.26.12.2002.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

.....

O.P. No.2304 of 2003

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Dated this the 19th day of December, 2006.

JUDGMENT

The petitioner is challenging recovery proceedings including proposal for arrest under Section 65 of the R.R. Act. Government Pleader after conducting enquiry pursuant to direction contained in the O.P. reported that the defaulter has 19 cents of land and an oil mill thereon. If defaulter has property, then of course I see no reason why such property should not be attached and sold instead of initiating proceedings under Section 65. The O.P. is disposed of with direction to the respondents to attach and sell the property of the defaulter and if any proceedings under Section 65 is contemplated, it should be initiated only if the District Collector is satisfied that petitioner has means to make payment, but refuses to pay. Adjudication should be completed and orders issued prior to initiation of proceedings for arrest.

C.N.RAMACHANDRAN NAIR
Judge

pms